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2
3 Hon. James L. Robart
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON AT SEATTLE

9 RICHARD J. FULTON,

10 Plaintiff,

11 vs.

12 LIVINGSTON FINANCIAL, LLC, and
13 NELSON & KENNARD,

Defendants.

No. 15-00574

DECLARATION OF JOHN P. RYAN RE
DISCIPLINARY SANCTIONS

14 John P. Ryan states and declares as follows:

15 1. I am an attorney for defendants Livingston Financial, LLC and Nelson &
16 Kennard. I have appeared pro hac vice with the court's permission in this matter. I am
17 competent to be a witness and have personal knowledge of the matters and records attested to
18 in this declaration.

19 2. I have been practicing since November 2006. Approximately 70-80% of my
20 practice is in federal court.

21 3. I have never been sanctioned in any way before.

22 4. I worked directly with local counsel, Marc Rosenberg, in drafting and filing the
23 briefing on defendants' motion to compel and the reply in support of the motion to compel.

24 5. Based upon my review of the case law, I believed there was a valid distinction
25 between a garden-variety emotional distress claim — which seeks recovery for stress, worry,

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DISCIPLINARY SANCTIONS - 1
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LEE SMART

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inconvenience, and the like — and a claim for a diagnosable medical condition, such as high blood pressure. In distinguishing plaintiff's claim for emotional distress and his claim for high blood pressure, I had no intent to misrepresent the nature of plaintiff's claimed damages.

6. Based upon my review of the case law, it is my understanding that amended Federal Rule of Civil Procedure 26 is intended to limit production to what is proportionally appropriate in the case. However, it is not my understanding that the meaning of relevancy itself has changed or that the burden on the parties to consider proportionality in seeking or opposing discovery has changed. I believed that the discovery sought on the motion to compel was proportional to the needs of the case.

I declare under the penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

SIGNED in Chicago, Illinois this 20th day of April, 2016.

John P. Ryan

**DECLARATION OF JOHN P. RYAN RE
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CERTIFICATE OF SERVICE

I hereby certify that on the date provided at the signature below, I electronically filed the preceding document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following individuals:

Mr. Jason Anderson jason@alkc.net

Mr. John P. Ryan jryan@hinshawlaw.com

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct, to the best of my knowledge.

Dated this 20th day of April, 2016 at Seattle, Washington.

LEE SMART, P.S., INC.

By: /s Spencer Gheen

Spencer N. Gheen, WSBA No. 43343
Of Attorneys for Defendants
Livingston Financial, LLP and
Nelson & Kennard

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**DECLARATION OF JOHN P. RYAN RE
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